

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

BEVERLY KEARNEY,  
MELVIN SPARKS, INDIVIDUALLY AND  
AS REPRESENTATIVE OF THE ESTATE  
OF ILREY SPARKS, DECEASED,  
AND AS NEXT FRIEND TO  
IMANI SPARKS, A MINOR,  
WINSTON SQUIRE, INDIVIDUALLY  
AND AS REPRESENTATIVE OF THE  
ESTATE OF MURIEL WALLACE,  
DECEASED, YVONNE SQUIRE  
ST. LOUIS, ANDREA SQUIRE,  
LEROY SQUIRE, HENRY FREEMAN,  
AND DORENTTE FREEMAN

Plaintiffs.

vs.

TOYOTA MOTOR CORPORATION,  
TOYOTA MOTOR MANUFACTURING  
NORTH AMERICA, INC. and  
TOYOTA MOTOR SALES, U.S.A., INC.,

Defendants.

VS.

MICHELLE FREEMAN

Third-Party Defendant

**PLAINTIFFS' AND DEFENDANTS' JOINT STATEMENT REGARDING  
FAMILY COURT APPROVAL OF SETTLEMENT AGREEMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiffs and Defendants in the above entitled and numbered cause, file this their Joint Statement Regarding Family Court Approval of Settlement Agreement, and for such would respectfully show the Court as follows:

I.

On March 28, 2003, Plaintiffs filed this case against Defendants alleging various product liability causes of action against Defendants. One of the Plaintiffs in this case, Imani Sparks, is a minor who was represented by her next friend, Beverly Kearney. Kearney had previously sought to be appointed Imani's managing conservator and initiated a state court action entitled *In the Interest of Imani Aleah Sparks, a Child*, Cause No. FM4-01442, in the 250th Judicial District Court of Travis County, Texas. On August 4, 2004, the 250th Judicial District Court entered a final order appointing Kearney and Melvin Royce Sparks, Imani's biological father, as joint managing conservators. *See* Order in Suit Affecting the Parent-Child Relationship, attached as Exhibit "A," at 2.

Sometime thereafter, the parties entered into a settlement agreement. The Court appointed Richard Grainger to serve as guardian ad litem for Imani Sparks. On October 28, 2004, Mr. Grainger signed and approved the settlement agreement on behalf of Imani Sparks. At the prove-up hearing on September 28, 2004, the Court expressed concern that the 250th Judicial District Court, as the Family Court that had previously made a determination concerning the best interest of Imani Sparks, had not approved the settlement agreement.

In response to the Court's concern, the parties contacted the 250th Judicial District Court and inquired about the possibility of conducting a prove-up hearing to approve the settlement agreement or obtaining approval of the settlement agreement by some other means. After multiple communications with the staff of the 250th Judicial District Court, the parties were informed that the judge of said court believes that her approval of the settlement agreement is neither necessary nor appropriate. The parties

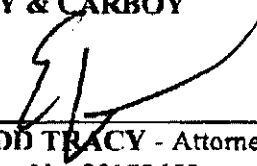
were informed that the 250th Judicial District Court considers the Order in Suit Affecting the Parent-Child Relationship, entered on August 4, 2004, to be a final order; and that 250th Judicial District Court currently has no jurisdiction over Imani Sparks. While the judge of the 250th Judicial District Court expressed her acknowledgement and appreciation of this Court's concerns, she believes that the approval of Imani's guardian ad litem is sufficient to validate the settlement agreement on Imani's behalf. Therefore, the parties would respectfully request that this Court approve the settlement agreement and enter an Agreed Judgment.

**II.**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Defendants would respectfully request that the Court take this Joint Statement Regarding Family Court Approval of Settlement Agreement under advisement, approve the settlement agreement in question, enter an Agreed Judgment in the above entitled and numbered action, and for such further relief, both at law and in equity, to which the parties may show themselves to be justly entitled.

Respectfully submitted,

**TRACY & CARBOY**



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**ATTORNEY FOR PLAINTIFFS**

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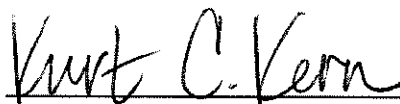
Respectfully submitted,

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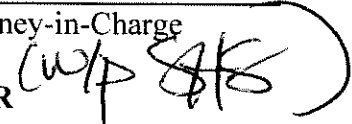


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INC. AND TOYOTA MOTOR SALES,  
U.S.A., INC.**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been served on all interested parties on this 15<sup>th</sup> day of November, 2005.

